

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, March 11, 2005 – 8:00 a.m.
Saturday, March 12, 2005 – 8:00 a.m.
Holiday Inn Palo Verde
4550 S. Palo Verde Road
Tucson, Arizona 85714

PRESENT: (Commission)

(Director's Staff)

Chairman W. Hays Gilstrap
Commissioner Joe Melton
Commissioner Michael M. Golightly
Commissioner William H. McLean
Commissioner Sue Chilton

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Shelley Cutts

Chairman Gilstrap called the meeting to order at 8:10 a.m. The Commissioners introduced themselves and Chairman Gilstrap introduced the Director, and the Director's staff.

This meeting follows an agenda revision dated March 7, 2005.

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1. An Update on Current Issues, Planning Efforts, and Proposed Projects on State and Federal Lands in Arizona and Other Matters Related Thereto.

Presenter: Bob Broscheid, Habitat Branch Chief

The Commission was briefed on the latest developments relating to the implementation of land and resource management plans and projects on state and federal lands in Arizona and other related matters. The update addressed decisions or activities since the February 2005 Commission meeting. A copy of this update titled Lands Update was provided to the Commission prior to today's meeting and is included as part of these minutes. This update is in fulfillment of the Department's commitment to brief the Commission on a regular basis regarding decisions and actions on all state and federal lands in Arizona.

Commissioner Chilton asked about the progress in the Pinaleno Mountains in the Coronado National Forest and what the probability was of getting this project moving before the fire season.

Mr. Broscheid stated that the Department continues to work with the Forest Service and the Fish and Wildlife Service. Recently a draft scoping report was received, which will be sent out to the public this month or early next month. That will initiate the public process consistent with environmental compliance documentation. The Department provided background and biological expertise to ensure that those proscriptions consider the needs of wildlife, but also allow the project to move forward and do restoration on top of the mountain. The intent is to get this moving before the fire season, but sometimes the NEPA process moves along slowly.

Commissioner McLean commented on a couple items. The first was in regards to the Sonoran Desert National Monument and the work the Department and BLM are trying to do there. There are some people in the western part of Pinal County who are trying to incorporate that entire area under the name of the City of Cimeron. They have filed incorporation petitions with Pinal County to incorporate an area about the size of Phoenix, 250 square miles. They will include the tabletop wilderness area and the entire portion of the Sonoran Desert National Monument that is located within Pinal County. They are planning to make the area into city parks and are very serious about it, so we need to talk with BLM and look at this very seriously.

The second item was in regards to the Ironwood Forest National Monument. La Osa Development is about to come back and we need to be looking at whether or not they are going to have an impact on wildlife along the Santa Cruz just north of the Pinal Pima border. We need to be watchful of this situation.

Commissioner Melton commented on meetings he recently attended regarding the Tumacacori Highlands Wilderness area and he provided the other Commissioners with some informational materials. One was a copy of a Wilderness Bill, which says it won't affect hunting, but it says the Secretary may designate areas in which no hunting, fishing, or trapping will be permitted in wilderness areas designated by this act. It gives the reasons why that could occur and the applicable laws. When they talk about applicable laws, they are talking about the 1964 Wilderness Act and Commissioner Melton believes that this is where all the difficulty comes from. The Wilderness Act has too many "shalls" and not enough "mays". The Wilderness Bill is a 9-page document with 13 places where "will" was used and most of these are how it will be implemented. There were 26 places where "may" was used, which means maybe, might or perhaps, that we may be able to do that. Further, Commissioner Melton read two statements of the Director's testimony given at a Sub-committee of Public Lands and National Parks and Forest and the Senate Committee on Energy and Natural Resources held in Washington D.C. on April 5, 1990. 1) "We have two basic areas of concern regarding the designation of lands in Arizona into wilderness. The first concern is public access..." and 2) "The other concern in Arizona for the Arizona Game and Fish Commission and the Department is its effect on our ability to manage wildlife and to develop and maintain wildlife habitat projects." The same issues we are dealing with in Tumacacori, we dealt with 15 years ago.

Commissioner Chilton commented on a lawsuit filed recently by the Center for Biological Diversity and Public Employees for Environmental Responsibility against providing water in the desert for wildlife. They are asking that the Park Service stop working on plans to develop man-made watering holes for wildlife on areas they've acquired that had ranch waters on them before. This is in the Mohave National Preserve in California, but is close to Arizona and it effects our same game populations. They acquire land, shut of the waters and shut off the access.

Public Comment

Brian Dolan with Arizona Desert Bighorn Sheep Society (ADBSS) addressed the Commission. In regards to Commissioner Melton's comments, the ADBSS has been in that wilderness battle along with the Department for twenty years or more. It would appear that the Department is on the right track in trying to develop a stronger negotiating point because if you just wait until a bill is presented, its going to be too late. Mr. Dolan encouraged the Department to continue to oppose wilderness designations. In regards to the Sonoran Desert National Monument, for the

past two weeks, Mr. Dolan has been participating in the public process. They released their preliminary list of alternatives and he was aghast at the list of alternatives that are presented. It starts from a no action alternative, which maintains the status quo that is out there now and has led us to the lawsuit with the Interior Board of Appeals, and from there it goes to more and more preservation and more wilderness. There was nothing that addressed wildlife conservation or wildlife management; it was completely absent. We need to insist that BLM provide to us a reasonable alternative that we can select from. Right now there is not a single alternative except for no action, which is ridiculous. Also, the Sonoran Monument is the first of several that are coming down the pike and what happens on the Sonoran Monument is going to be used as a template for the others.

Commissioner Chilton asked for a copy of the list of the range of alternatives, which was provided to all Commissioners, and then asked Mr. Broscheid if the Department was represented in this process.

Mr. Broscheid stated that the Department is involved and is continuing to work on the preferred alternative, which is the one that BLM will move forward as their selected alternative for the future management of those lands. We just recently reviewed that as an internal draft and submitted comments to BLM, and they were substantial. We plan to sit down with BLM in the next week or two and resolve those issues and make sure that access and wildlife management continue. We are being heard and we are trying to incorporate that language into the preferred alternative.

Chairman Gilstrap asked Mr. Dolan if he had observed the wildlife issues being discussed.

Mr. Dolan stated that he had been involved in the Sonoran Desert Monument since it was originally proposed. It's his observation that they are intentionally glossing over the controversy that exists between what it takes to do wildlife conservation and preservation. Right now there is a whole book that talks about wilderness designations and where they are going to try to manage for wilderness characteristics and visual resource management and roads that are going to be closed, but there is not a single paragraph in there that talks about targeted wildlife population goals or targeted values for wildlife dependant recreation opportunities, and so it's going to be the same thing. We have very generic language that says the state has the right for jurisdiction of wildlife management issues and then we have more and more layers of restrictions, which we know doesn't work.

Chairman Gilstrap asked Mr. Dolan if he thought that the concerns of the ADBSS were being outright ignored to which Mr. Dolan replied yes, the ADBSS as well as the Department's concerns were not being addressed.

Commissioner Melton commented that at the meeting on the Sonoran Monument in Casa Grande, Director Shroufe was able to testify on that bill for the first time. These things are done and by the time they show it to us, it's too late to turn it around. If we are going to fix it, it needs to be fixed before it comes out as a public document. Once it hits the ground, it's been through all the process, so legally it's an official document, even though our concerns have not been addressed. Concerns need to be sent in writing so that they have to address the issues.

Mr. Dolan asked the Commission to direct the Department to insist that there is a wildlife conservation and management alternative.

Commissioner Chilton commented that even when you get the language that you think protects your interest in a wilderness bill or one of these monument bills, then the other groups sue and what you thought you had, you don't have.

Chairman Gilstrap requested that Mr. Broscheid provide a report next month on wildlife being directly addressed or be prepared to recommend an action for the Commission.

Director Shroufe pointed out that in the current Lands Update it is reported that the list of alternatives is not satisfactory. Further, Director Shroufe suggested that based on public comment, the Department draft a letter for Chairman Gilstrap's signature to the BLM State Office asking these questions and ensuring that a copy of that letter goes to the Congressional Delegation and that we get that letter started right now.

Motion: Melton moved and Chilton seconded THAT BASED ON PUBLIC COMMENT THE DEPARTMENT DRAFT A LETTER FOR CHAIRMAN GILSTRAP'S SIGNATURE TO THE BLM STATE OFFICE ASKING THESE QUESTIONS AND ENSURING THAT A COPY OF THAT LETTER GOES TO THE CONGRESSIONAL DELEGATION.

Vote: Unanimous

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2. Briefing by Pima County on the Status of the Sonoran Desert Conservation Plan.

Presenter: Bob Broscheid, Habitat Branch Chief

Representatives of Pima County provided the Commission with a briefing on the implementation status of the Sonoran Desert Conservation Plan, including their 2004 Open Space Acquisition Program.

The Commission has expressed a keen interest in the development and implementation of the Sonoran Desert Conservation Plan, and has received annual briefings on this subject from the Staff of Pima County during the past several years. This briefing by Pima County is an effort to continually update the Commission on the progress of this plan and inform the Commission of the County's Program for Open Space Acquisition.

Chuck Huckleberry of Pima County addressed the Commission and provided them with several draft informational brochures/vision documents and one CD, each laying out a different component of the Pima County Sonoran Desert Conservation Plan. The final draft plan is on the web and available for review and comment, and will be finalized within the month. Following it's finalization will be the release of the Federal Environmental Impact Statement that accompanies that particular Federal permit document. They hope to have the EIS process completed by the end of the year and will begin with a number of cooperators to negotiate the implementing agreement (a formal contract between the U.S. Fish and Wildlife Service and Pima

County) regarding compliance with the section 10 permit. That process should be completed by the end of this year.

A lot of implementation has been done with regard to the overall vision of the Conservation Plan. Another milestone was achieved in May of 2004 with the approval of a bond issue for open space acquisition. One hundred and seventy-four million was approved by voters of Pima County and their approval of that bond issue reached near the 70% approval rating, so it falls in line with other open space bond issues the county has had since 1974. They have a history of trying to conserve important pieces of property for visual, historical, cultural or biological purposes. This last bond issue is the largest bond issue for open space in Pima County. They have also continued to proceed, since the initiation of the Conservation Plan and the statement that they wanted a multi-species habitat conservation plan, to take actions that they believe are credit components and they have acquired a number of properties. Pima County now actually owns and manages about 72,000 acres of open space and is actually beginning to segregate their open space categories into different public use components, so that they are in fact consistent with the conservation plan in their stated goals of multiple purposes. They have been successful and have seen that success measured in public approvals, and in being a recognized national model for conservation and cooperative planning in a highly growing urban area.

They will have spent by the end of April about \$42,000,000 of the authorized bonds and that effort will add to the inventory another 22,000 acres of lands that have been acquired. Most of those lands will be put in the category of emerging reserves, the concept of a working landscape. By the time the bonds are fully extended they probably will add another 100,000 acres with the approval of this bond issue.

They have had a very close and productive working relationship with the Game and Fish Department and hope to continue and even expand on working cooperatively with Department staff.

Commissioner Chilton commented on the issue of long term recreational access, habitat management, and water conservation and asked for assurance that in long term there is not a type of preservationist agenda behind the preserves; and further, if it will be kept in working landscapes where Game and Fish can continue to have access for recreation, management and water improvement maintenance.

Mr. Huckleberry replied that they have absolutely no intent to try to manage wildlife. They want to work cooperatively with the Game and Fish Department and all their planned acquisitions are designed to be reserves, and in such they are trying to protect that working landscape.

Commissioner Melton stated that when we deal with wildlife corridors where wildlife is protected and can't be harvested, we create habitat where wildlife becomes accustomed to humans, and that is the problem we have had with some lions. It's a great idea and should happen, but how do we successfully deal with undesirable wildlife. Is there any consideration on what kind of a planning process can be put together that would allow some control of these populations, especially for safety concerns.

Mr. Huckleberry stated that this was a tough issue. When dealing with the conservation planning we are trying to conserve whole ecosystems that function. We need to figure out how to educate

the people who are the problem or part of the problem and work cooperatively with the Department to understand how better to work and manage those boundary conditions; where the urban edge stops and where the natural ecosystem begins. We don't have any answers, but maybe the legislature will finally tell people it's a bad idea to feed wildlife.

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3. Consent Agenda

The following items were grouped together and noticed as consent agenda items to expedite action on routine matters, which may not require public discussion. The Commission was asked to vote to approve these matters as presented, subject to approval or recommendations of the Office of the Attorney General. The Commission removed item number 3.b. from the Consent Agenda as requested by Commissioner Chilton.

3.a. Request for Commission Approval of a Collection Agreement with Pima County Parks and Recreation To Establish a Three-year Cooperative Planning Position with Pima County Natural Resources, Parks and Recreation Department.

Presenter: Bob Broscheid, Habitat Branch Chief

The Commission and Pima County signed a Memorandum of Understanding to form a cooperative and supportive relationship that is mutually beneficial in managing wildlife resources that are in the best interests of the people of Pima County and the State of Arizona. To continue this level of cooperation, the Department and Pima County Natural Resources, Parks and Recreation desire to enter into a Collection Agreement that would establish a three-year cooperative planning liaison position to coordinate the Department's involvement in the development of management plans for existing and future Pima County Natural Resource, Parks and Recreation lands; assist in developing and implementing strategies to resolve problems associated with wildlife management on County lands; provide wildlife technical information and assistance in the implementation of the Sonoran Desert Conservation Plan; and provide a formal communication link regarding Department issues regarding natural resource management activities of the County.

Motion: Melton moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE THE COLLECTION AGREEMENT WITH PIMA COUNTY PARKS AND RECREATION TO ESTABLISH A THREE-YEAR COOPERATIVE PLANNING POSITION WITH PIMA COUNTY NATURAL RESOURCES, PARKS AND RECREATION DEPARTMENT.

Vote: Unanimous

3.c. Request for the Commission to Approve an Agreement with Navopache Electric Cooperative for a Power Line Easement to Provide Electrical Services to the Commission's Grasslands Wildlife Area, Apache County, Arizona.

Presenter: Bob Broscheid, Habitat Branch Chief

Navopache Electric Cooperative (NEC) requested a utility easement (attached) through portions of Commission deeded property on the Grasslands Wildlife Area, Apache County, Arizona. The easement will include an existing power line and a new line that is necessary to provide power to Department facilities and a native fish (Little Colorado spinedace) refugia pond. This Agreement would serve to grant NEC a ten-year, twenty-foot wide utility easement-of-way for both the existing line and the new line. The Department reviewed the request from NEC and determined that the utility easement is consistent with the Grasslands Wildlife Area Management Plan and will facilitate management objectives listed in the Little Colorado Spinedace Recovery Plan.

Motion: Melton moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE AN AGREEMENT WITH NAVOPACHE ELECTRIC COOPERATIVE FOR A POWER LINE EASEMENT TO PROVIDE ELECTRICAL SERVICES TO THE COMMISSION'S GRASSLANDS WILDLIFE AREA, APACHE COUNTY, ARIZONA, AS ATTACHED OR AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

3.b. Request for Commission Approval of a Cooperative Agreement Regarding Collaborative Planning and Cooperative Actions for the Cienega Corridor in Southeastern Arizona, Pima County.

Presenters: Bob Broscheid, Habitat Branch Chief

The Cienega Corridor Planning Area encompasses approximately 150,000 acres in Pima County within the lower Cienega Creek watershed. This area was proposed for inclusion in the Las Cienegas National Conservation Area, but was not included in the final designation due to concerns over land ownership. As a result, Congress recommended that the Department of the Interior conduct a formal assessment of the natural and cultural values of the area and develop a set of recommendations for future conservation of these resources. The assessment recommended a community-based, collaborative management approach for the Cienega Corridor, including the formation of an ad hoc council of federal and state agencies, citizens, and interest groups to develop protection strategies for the area. As a result, a Cooperative Agreement has been developed to foster collaboration among stakeholders.

The Cienega Corridor Planning Area contains valuable wildlife habitat and is an important movement corridor between the Rincon and Santa Rita mountains. Additionally, the Cienega Creek watershed is important for groundwater recharge in the Tucson Basin, and the corridor's historical and archaeological sites, working ranches, and recreational opportunities contribute to the area's uniqueness. The Department recognizes the need to work cooperatively to address issues related to wildlife resource conservation throughout this patchwork of state, federal and private lands.

Commissioner Chilton commented that she spent considerable time going over this and pointed out that the list of participants does not include local residents of the area. It's largely Tucson clubs, Pima County, State of Arizona, National Park Service, BLM Tucson Office, Tucson Saddle Club, etc. These are all good participants, but she did not see groups of the people who live in the area. Also, Commissioner Chilton questioned the absence of private property on the

map and asked Mr. Broscheid if there was any private property included and why it wasn't shown.

Mr. Broscheid stated that there is private property in the area and that the map was a very general draft overview, and that the groups mentioned and the private landowners will be involved. This is only in the early draft stages and the groups mentioned are just those who have already stated that they want to participate. Local and private property owners will be included in the effort of recruiting council members as well as planning partnerships.

Commissioner Chilton pointed out that it is difficult and challenging for private citizens to be on these committees for long periods of time. She wants to see that there is a legitimate and not too onerous opportunity for people who actually live there to have input. In addition, Commissioner Chilton requested a map that shows private property and she suggested that the Commission not vote to take action on this until they see a more representative process.

Public Comment

Emily Brott, Project Manager of the Cienega Corridor Project addressed the Commission and pointed out that she had in fact contacted some of the local groups and private landowners and she asked for contact information on some that had not yet been contacted. There is a tremendous amount of private land in the area and about 50% is State Trust land. The map was not intended to show the different land ownership patterns, but just the general area. Private landowners in the area are being contacted, but it's a slow process. In terms of people's continued ability to participate meaningfully in this process, they are hoping to involve people not only in regular meetings, but also in one on one outreach.

Commissioner Chilton commented on the definition of consensus. In a previous experience the definition of a consensus was changed toward the end from mostly all agreeing to two thirds agreeing and she would not want to see that happen here. Also, there are agencies that have statutory responsibility for certain uses on those lands. In the strategic plan rough draft there are various issues addressed that tend to indicate that the participant groups have input into the management decisions of those agencies that have legal responsibility and they may not want to imply that.

Commissioner McLean asked specifically how much land was privately owned, not including state or government owned property and why did he not see any names listed.

Ms. Brott stated that approximately 30% was privately owned and that individual names were not listed due to anonymity. At this point there are about 40-50 resident landowners who are involved, which is about 10% of the base, and they are continuing to try to bring more people in.

Commissioner McLean pointed out to Mr. Broscheid that the document the Commission is being asked to vote on is a draft and he does not want to vote on a draft document that is subject to change.

Motion: Chilton moved and Melton seconded THAT THE COMMISSION TABLE THIS ITEM.

Commissioner Golightly commented that we should not claim that we must have a certain percentage of landowners because we are not going to get them and those we get do not want their names published.

Vote: Unanimous

Motion: McLean moved and Golightly seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO CONSIDER WORKING COOPERATIVELY TOWARDS A FINAL AGREEMENT.

Commissioner Chilton noted that an important rational to voting yes, is seeing that all people effected are involved.

Chairman Gilstrap confirmed with Mr. Broscheid that the Department would be aggressively involved in identifying some of those people and that the Department will continue to work with the institute as well as others on this agreement and to bring it back at a future date.

Commissioner Golightly stated that he does not concur with the word “all” and that you cannot get an “all” consensus, to which Commissioner Chilton concurred that you cannot get 100%.

Vote: Unanimous

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4. Request for Commission Direction Regarding Grazing Renewal Options for the Grasslands Wildlife Area.

Presenter: Bob Broscheid, Habitat Branch Chief

On September 8, 2005, the four grazing leases and associated subleases for the Commission's lease of State Trust lands at the Grassland Wildlife Area will expire. At the request of the Commission, the Department presented options regarding the renewal of the grazing subleases, including the possibility of submitting the subleases for competitive bid.

Commissioner Melton stated that if we have an established person using that for grazing now, we should continue to use that same individual and not make them go out for a competitive bid.

Chairman Gilstrap confirmed with Mr. Broscheid that those who have been grazing long term are currently paying competitive prices and are not getting any special treatment.

Commissioner Chilton confirmed with Mr. Broscheid that the current lessees are continuing to allow access, maintaining waters, and are grazing in accordance with the grazing plan.

Motion: Melton moved and McLean seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO CONTINUE WITH THE EXISITING POLICY.

Vote: Unanimous

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Meeting recessed for a break at 9:55 a.m.

Meeting reconvened at 10:15 a.m.

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5. State and Federal Legislation.

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles briefed the Commission on the good news that the license fee bill passed out of the Senate on a 20 to 9 vote and is now on it's way to the House. Commissioner Golightly and Commissioner Gilstrap met with House members this week and have talked to the Chairman there about getting the bill assigned and ready to go in the House. We're going to have to keep pressure on the House members, as we need forty votes there instead of twenty.

Chairman Gilstrap concurred and stated that we'll need help communicating what this bill has in it and that it's not a tax increase, but a user fee and the users are supporting it.

Commissioner Golightly stated that the Chair of the Natural Resource Committee in the House agreed to have the hearing anytime, so we need to shoot for March 21st being the soonest we can get it first read and assigned to this committee.

Mr. Guiles stated that all but one committee member has been talked to and we have their assurances that they support it. We need to have a lot more meetings and we had several scheduled this week, but due to budget negotiations and caucus meetings, a lot of those were canceled. So we have rescheduled as many as we can for next week and will be working as many members as possible.

Further, most members have stated that they are set on the time frame of an April 15 adjournment. They are also working on the budget and hope to have it on the Governor's desk by next week. We have had good recommendations coming out of the Senate and the House Appropriations Committee in terms of our budget.

In addition, Mr. Guiles pointed out that State Trust Land is not going to go any further during this session. There is some talk about having a ballot initiative and certain members of the Legislature have expressed that sentiment. We have had conversation with some of those members about what may or may not be included in that initiative.

Chairman Gilstrap stated that if it does go to a ballot initiative, we need to be vigilant in making sure that language, which hasn't been there in the past, is in there that protects our lands, both present and future, and wildlife and wildlife habitat.

Mr. Guiles went over a couple of other bills of interest to the Commission.

H2127 Big Game Permits; Compassionate Transfer. This bill is moving along in the process. It's out of the House and over in Senate, where it has come out of committee.

H2295 and S1333, Animal and Ecological Terrorism. The Commission had directed the Department to work with the sponsors of this legislation to insert a provision on designated hunting areas from a rule to an order. We spoke with Senate and House sponsors and from there discussions, they were going to include it, but in terms of them re-evaluating the situation, they did not want to include it in that language, specifically because they wanted to have the identical language of a similar bill from last year that the Governor vetoed. They have agreed to work with us to get that language attached to another piece of legislation. Also, when the Commission took a position on H2295 and S1333, it was language that has changed at this point in time. There was a strike everything amendment, which included the original language from the previous session. The Commission would need to take a different position at this point in time on this legislation and let them know where we stand on this bill. Mr. Guiles told them that he would get back with them after this Commission Meeting and let them know where the Commission stood.

Commissioner McLean asked what the Governor's concerns were on this bill last year.

Mr. Guiles stated that the concerns of the Governor were that the statutes already addressed the numerous concerns that were addressed by this piece of legislation.

Mr. Guiles further commented that our Law Branch reviewed it and stated that it would have a low impact on the Department. The primary concern was to attach the Rule to Order issue to that piece of legislation.

Commissioner Melton asked if the main difference in this bill was to increase the penalties and if that were the case then he supports it.

Chairman Gilstrap clarified with the Commission and got a consensus that it would have little or no impact to the Department and that the Commission had no reason to oppose this bill.

Public Comment

Sandy Bahr, Conservation Outreach Director with the Sierra Club, stated that the Sierra Club took a position of opposition to this bill because of the overly broad nature of it, and that minor incidences could be incorrectly labeled as acts of terrorism. Further, the Sierra Club encourages the Commission to oppose the bill.

Commissioner McLean stated that the courts would recognize a minor incident and is allowed to use some discretion, but in other cases they could have a better tool to do their job with.

Commissioner Melton commented that there are some radical groups who participate in criminal activities for their cause and that the laws need to be tougher in dealing with these people. Therefore, he supports the bill.

Mr. Guiles continued his briefing to the Commission.

H2440, State Lottery Bill. This bill was held up in appropriations.

H2643, Multi-species Conservation Plan. This bill is moving through the process and is up for a final vote in the House.

S1271, School Gun Safety Program. It is past the Senate and through the House Education Committee and will probably go to COW next week.

S1349, Wildlife Feeding Bill. It did not pass through Committee. We are working with the sponsor to bring this bill back during the session.

In regards to the Supplement Defense Appropriation Bill and the 10% nonresident cap issue in Federal legislation, Mr. Guiles asked the Commission to take a formal position on the House Bill and Senate Bill.

Motion: Golightly moved and Melton seconded THAT THE COMMISSION AGGRESSIVELY SUPPORT THESE BILLS.

Commissioner McLean suggested that Chairman Gilstrap write formal letters on behalf of the Commission in support of these bills.

Director Shroufe stated that those letters have been written for individual Commissioners signatures, but they have not been sent and can be changed to just the Chairman's signature.

Commissioner Chilton stated that she is for the whole concept, but doesn't want her signature on the letter because, although we are suffering from the overbroad application of the Interstate Commerce Claus, when we try to get an exception from our own injustice we may be kidding ourselves that we actually have protection. Once it goes to court, they are fairly consistent in ruling in an extremely broad interpretation in what constitutes interstate commerce. We may think we have something once it's passed by Congress, but that may not be the case. We also may have broader constituency addressing the whole issue, rather than us trying to just exempt the part of it that is pinching our foot. (Later, during item #S8, Future Agenda Items, Commissioner Chilton stated for the record that after discussion with the Director, she now supports and will sign this letter.)

Chairman Gilstrap commented that if it passes through the House then it has a pretty broad constituency. In addition, this legislative action explains to the court that they don't necessarily agree with them, and that is a positive.

Vote: Aye Gilstrap, Melton, Golightly, McLean
Nay Chilton
Passed 4 to 1

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6. Landowner-Lessee/Sportsman Relations Committee Appointment

Presenter: Josh Avey, Landowner Relations Program Manager

The Department's Landowner Relations Program recommended a new member to serve a 3-year term on the Landowner-Lessee/Sportsman Relations Committee. Mr. David Hoyle is president of the Chandler Rod and Gun Club and is dedicated to preserving and enhancing public access opportunities. Members of the Landowner-Lessee/Sportsman Relations Committee have approved Mr. Hoyle's nomination.

Motion: Chilton moved and Melton seconded THAT THE COMMISSION APPROVE THE APPOINTMENT OF MR. DAVID HOYLE TO THE LANDOWNER-LESSEE/ SPORTSMAN RELATIONS COMMITTEE.

Vote: Unanimous

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7. Pringle Petition to Close a Road on State Trust Land Approximately Three Miles North of Benson, Arizona

Presenter: Josh Avey, Landowner Relations Program Manager

Mr. Avey presented a map and briefed the Commission. James and Patricia Pringle submitted a petition requesting the renewal of a road closure on State Trust land located approximately three miles north of Benson, off of Ocotillo Street. The road is approximately 750 feet long and only provides access to a windmill. This closure has been in affect through a previous closure petition, which was granted by the Commission in 1999.

The primary purpose of this proposed road closure is to protect a mesquite thicket, which provides reproductive habitat, cover and permanent water for wildlife. The proposed closure will be accomplished by means of a locked gate. Mr. Pringle has installed a stair walk over the fence and he welcomes foot access. Regional personnel and the Arizona State Land Department support this closure for natural resource protection.

Motion: Melton moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE THE PETITION FOR A ROAD CLOSURE ON STATE TRUST LAND LOCATED APPROXIMATELY THREE MILES NORTH OF BENSON.

Vote: Unanimous

Commissioner McLean asked if there was any signage stating that walk-in traffic was allowed, which there was not, and stated that the sign that states the road is closed should also state that walk-ins are allowed.

Mr. Avey affirmed that it would be remedied.

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8. Request for Commission Approval of the Program Narrative for U.S. Coast Guard Boating Safety Funds (Federal FY 2005 / State FY 2006).

This item was deleted and not addressed by the Commission.

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9. Statewide Shooting Range Briefing

Presenter: Don Winslow, Education Branch Chief, Information and Education Division

The Commission was given an update of Department activities related to shooting range support and development statewide. The update covered activities that have occurred since the February 2005 commission meeting.

Department owned ranges.

Ben Avery Shooting Facility in Phoenix: The Department reported to the Commission that architect Lorin Kramer, who has extensive experience in shooting range design, has assessed whether the siting of the headquarters would interfere with or limit operations or expansion of the clay target facility and has informed us that additional facilities could be added to the north or east of the existing facility. The city of Phoenix has begun water and sewer line work along Carefree Highway. The city will use areas north and south of the highway as staging and storage areas while construction is underway. Maricopa County Parks has requested a right of way for a hiking trail along the northern part of the range between the archery area and the Federal prison.

Commissioner McLean questioned what State Risk Management would have to say about a hiking trail going across a shooting range.

Director Shroufe stated that this briefing was just an advisory that the hiking trail has been requested and that any right-of-way would have to be approved by the Commission.

Commissioner Golightly commented that it would work to the Commission's benefit to stop the process now and that he is not in favor of allowing an easement for a hiking trail across Ben Avery.

Motion: Golightly moved and McLean seconded THAT THE COMMISSION NOT INDULGE OR INVESTIGATE THE REQUEST FOR THE RIGHT OF WAY AND NOTIFY MARICOPA COUNTY OF OUR FINDING THAT WE NOT GET INVOLVED WITH A REQUEST FOR A RIGHT OF WAY IN THE NORTHERN PART OF THE BEN AVERY SHOOTING RANGE BETWEEN THE ARCHERY AREA AND THE FEDERAL PRISON.

Public Comment

Kerry Baldwin, Natural Resource Division Chief, Pima County, (and former AGFD Education Branch Chief) addressed the Commission. There is a trail complex system in there now, so the Commission may be putting themselves in a position where there will be more use on the western boundary, which is on the western alignment of Ben Avery where the Commission might want to expand the trap and skeet facility rather than to the northern portion. This is essentially a trail linkage from Anthem to the Black Canyon trail system that comes all the way from Maricopa County up into the Bradshaws. So, there may be other related elements and the

Commission may be shifting from what they don't like in one place to a potential that is even greater on the other end. That alignment is already in place and it's been discussed about trying to move it, but Maricopa County very strongly wants to move a trail system through there. The Commission might want to give themselves a little leeway to see exactly what that alignment is and what they plan to do with it. It may be a better alternative than the one you have; to ask them to realign and abandon that western trail element.

Chairman Gilstrap commented that he is aware of the trail system to the west and BLM has shown maps of that system that moves through the southern end and it gives a different angle to the exposure of the shooting range, but what this Commission is concerned with is the hazard of people coming onto the range unknowingly. The Commission is not interested at all in reducing the opportunity for trail activity, but if we could encourage the county to take a look at that trail branching off and hooking up north of the prison rather than south of the prison, then they could have what they want and neither of us would be exposed.

Commissioner Golightly clarified the location of the trail and that the range could not be seen from there, and further stated that maybe the Commission should look at the document.

Commissioner Chilton commented that we want to be careful not to introduce a constituency that can be raising objections to the legitimate function of the shooting range.

Chairman Gilstrap commented that, for public safety, we want to make sure that the county and the Commission review all the potential problems and maybe provide access for the public with a trail that doesn't go between a prison and a shooting range.

Chairman Golightly withdrew his motion and suggested that this item be tabled until additional information is collected and considered.

Mr. Winslow continued with the rest of his briefing.

Sierra Vista Shooting Range: Department staff began the process of contracting with a vendor to begin construction at the Sierra Vista range in February. The range improvements will include a restroom that meets accessibility requirements and a sidewalk, and should be in place by April.

Three Points Shooting Range in Tucson: The Bureau of Land Management has accepted the DPS lease as written with minor edits; a letter of concurrence from the BLM was received Nov.15. The agreement has been sent to DPS for signature.

Usery Mountain Shooting Range in Mesa: The Department has reached an agreement with the Arizona Department of Environmental Quality on a work plan to remediate chemicals discovered in one of the range's septic systems. Work is expected to begin by April 1. Meantime, the Habitat Branch has been directed to move forward to finalize documents needed to transfer of the range from Maricopa County to the Game and Fish Commission.

Shooting programs and other activities.

Northern Arizona shooting range: In January, the Commission authorized the Department to proceed with a settlement related to the Bellemont range site. Both the Department of

Agriculture and the Justice Department have signed this agreement. The Department remains committed to siting a shooting facility in the Flagstaff area and will work with the U.S. Forest Service to identify potential locations.

Scholastic Clay Target Program: A training was held in Sierra Vista in February with 25 new instructors committed to providing the program in Southern Arizona.

Shooting range partnerships.

Douglas Rifle and Pistol Club: The U.S. Army has been in contact with the Arizona Congressional delegation in order to facilitate the transfer of this range to the city of Douglas.

St. John, Arizona: Staff met with officials from Apache County and the St John's Gun club to review a shooting range in St John's. This range is has been an unofficial shooting range for a long time, and both the county and the shooters would like the Commission to assume ownership. The club would like to run this range under the same type of agreement we have with clubs that operate other Commission-owned properties.

Tri-State Shooting Recreation Center: There was no new information provided at this time.

Mr. Winslow and other Department employees attended an Arizona Bowhunters Association meeting and fundraising banquet where they were praised for the Archery in the Schools Program. This program is changing school attitudes about shooting sports and is continuing to grow in Arizona to the point that we are having trouble meeting the needs and providing teachers with materials and training. Right now we have 60 teachers on a waiting list to be trained. We have 47 schools in the program and 93 teachers have been trained so far.

Commissioner Gilstrap requested that Mr. Winslow come back and brief the Commission on what the Commission can do to enhance or reach the existing demand.

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10. A Presentation on the Commission's Authority to Revoke and Suspend Special Licenses.

Presenter: Jim Odenkirk, Assistant Attorney General

Mr. Odenkirk provided the Commission with a Power Point presentation on the Commission's authority to revoke and suspend special licenses. The type of special licenses in this briefing are related to guide licenses, live wildlife licenses, which is a variety of licenses established in Commission regulations that permit the possession of live wildlife under various circumstances, taxidermist licenses, and fur dealer licenses.

Starting with guide licenses, the Commission wanted to know about their authority and whether or not there was any responsibility for outfitters and guides. Title 17 defines a guide as a person who for pay aids or assist a person in the taking of wildlife, and the Commission has adopted a regulation that governs guides and the issuance of guide licenses. The definition of a guide, however, has not been interpreted to include an outfitter. There are some gray areas between what a guide and what an outfitter is in that there are some activities that may overlap. An

outfitter is involved in a broader array of activities in helping someone with a hunting experience, such as providing equipment and travel arrangements. If you look at the Commission's regulations in how it defines a guide, it's clear that what the Commission currently regulates is just those activities that involve the taking of wildlife in the field. So right now the Commission's authority is limited as to outfitters and only applies to guides.

The Commission's authority to revoke a license is specifically provided in statute. It says that the Commission can revoke a guide license after a hearing for a conviction or for failing to comply with Title 17.

Commissioner Golightly asked if a person was going to outfit, would he need a guide license.

Mr. Odenkirk responded that it's the activities that are being regulated. We don't require a person to have an outfitters license. If they have a guide license, it allows them to assist someone in the field in the taking of wildlife. They may also engage in outfitting activities under the use of their guide license, and that occurs, but we don't regulate that. If an individual violates the provision of their guide license and we take away their guide license, they could still engage in outfitting activities.

Regarding live wildlife licenses, the Commission is permitted to regulate the use and possession of live wildlife and it has established through Article 4 of the Rules a variety of special licenses that allow the possession of wildlife and also relates to the take of live wildlife. Title 17 specifically provides that the Commission can revoke these types of licenses for non-compliance. The Department also has some concurrent authority to suspend live wildlife licenses, if appropriate, but the final decision to revoke would be with the Commission.

In regards to taxidermy and fur dealer licenses, the Commission is permitted to issue these licenses. These licenses are different in that the statutes are silent on the issue of the Commission's authority to revoke. There is a general principle of law that if an agency has the authority to issue a license, it has the inherent authority to take it away. The problem is that it must be based on pre-established standards or criteria. Right now there are no pre-determined criteria that would guide a decision to revoke and the Commission would need to move toward rulemaking to establish some criteria.

Commissioner McLean clarified with Mr. Odenkirk that the areas where we have not provided that criteria by rule to date are taxidermist and fur dealers.

Chairman Gilstrap added outfitters to that list.

Mr. Odenkirk stated that the Commission doesn't have specific statute to regulate or define outfitters, but the question is does the Commission have existing authority that could be used to incorporate outfitters into their responsibility. Even if they did, it would still require some rulemaking to put some context to that regulation.

11. Call to the Public

David Gaffney, a private citizen, addressed the Commission to call their attention to the 2004-2005 Regulations, Commission Order 14. There are five elements; the fourth element has, as

legal wildlife, the Gunnison Prairie Dog. The fifth element says all animals except, and then there is a list, but in the list is the Gunnison Prairie Dog. One line says you can hunt the Gunnison and the next line says you cannot.

Warren Stoppkotte, a private citizen, hunter and fisherman, addressed the Commission on Rule 12-4-121, which covers the transfer of big game permits from one individual to another. The rule does not allow a transfer for reasons such as medical or family emergency, death, relocation, etc. Mr. Stoppkotte proposed that the rule be amended to allow the transfer of a permit from one individual to another in those particular circumstances, and through the proper administration of the Game and Fish Department. If that cannot be accomplished, then a permit holder could be allowed to turn that permit back in to the Game and Fish Department where it could go into the first come, first serve pool, so that the permit is not wasted.

Sandy Bahr, Conservation Outreach Director, Sierra Club, Grand Canyon Chapter addressed the Commission with a concern that the Commission is not focusing on habitat loss and development related to habitat loss. We all need places for wildlife and places far from development in order to hunt the wildlife. Ms. Bahr requested that the Commission focus on this issue. She is concerned when she hears comments opposing wilderness and encouraged the Commission to look at the bigger picture on some of these issues, and to work with the Sierra Club and all of their constituents.

Beth Woodin, Vice President of the Arizona Heritage Alliance (and former Arizona Game and Fish Commissioner), addressed the Commission and thanked them for their opposition to using Heritage Fund monies to pay the 1.6 million dollar state portion of the Zuni settlement. Another item was in regards to the problems that can be presented by wildlife corridors through areas that are densely inhabited by humans. This is a problem and the urban wildlife part of the Heritage Fund needs to be beefed up so that there is much more contact with the people who are living in that urban/wildlife interface. The more educators we can get out there to teach people how to live with wildlife the better.

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Meeting recessed for lunch at 12:00 p.m.

Meeting reconvened at 1:00 p.m.

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12. Executive Session

a. Legal Counsel. The Commission voted to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A) (3) and (4) for the purpose of discussing and consulting with legal counsel in order to consider its position and to instruct legal counsel regarding the Commission's position on *Montoya v. Manning*, CIV98-0239 PHX RCB; *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game & Fish Commission & Shroufe*, CIV2000-020754; *Ameduri and Yee et. al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02 2495 PCT FJM; *Bar D Cattle Co. v. Shroufe*, CIV2002-0872; *Phelps Dodge Corp. v. Arizona Dept. of Water Resources*, LC2003-000243-001DT; *Arizona Zoological Society, et. al. v. BLM*, IBLA appeal no. 2002-412; *Audubon Society of Portland v. USFWS*, CV04-670-KI; and *State of Arizona v. George H. Johnson*, CV2005-002692.

b. Personnel Matters. Director's goals and objectives.

Motion: Melton moved and McLean seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Vote: Unanimous

Commissioner Chilton was called out on a personal emergency during Executive Session and was absent for the rest of the day.

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13. Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife at Time Certain 2:00 p.m. The Commission will consider and take action on the license revocations and/or civil assessments for the individuals listed below.

Presenter: Mike Godwin, Acting Law Enforcement Branch Chief.

Record of these proceedings is maintained in a separate minutes book in the Director's Office.

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14. Litigation Report

Presenter: Jim Odenkirk, Assistant Attorney General

A copy of this report was provided to the Commission prior to today's meeting and is included as part of these minutes.

The Commission had no questions or comments.

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Initially, Item #15 was a progress update on the Comprehensive Wildlife Conservation Strategy. Director Shroufe deleted this item and stated that the Department was not prepared to provide the initial draft document this month; however, the overall strategy and timelines have not been compromised.

15. Online Big Game Application Process.

Presenter: Duane L. Shroufe

At the September 2004 Commission meeting, the Department was directed by the Commission to suspend the online application process for calendar year 2005 and to implement a new process for 2006 that would require customers to pay all fees at the time of application. In order to implement this direction, the Department initiated the Request for Proposal (RFP) process to award a new contract that would include this requirement.

This RFP was advertised beginning January 13, 2005 and opened on February 15, 2005. While the RFP included several components, one of the major requirements was for vendors to provide the Department with options specifically related to charging customers upfront for all fees when applying online for big game hunting opportunities. Initially, the RFP committee thoroughly evaluated each proposal and subsequently offered interviews to each of the vendors. After interviewing each of the vendors and conducting additional research, the committee has determined that charging customers upfront for permit/tag fees is a highly questionable practice and one that is not recommended by the majority of the vendors interviewed or by the independent bankers contacted by the committee.

Commissioner McLean stated that since it appears we are going to be doing a manual draw, the only way to do that is to go back to the old manual system; collect tag fees up front and provide a refund to those who are not drawn. Commissioner McLean and the RFP committee spent two days interviewing the four applicants who responded to the RFP and all four vendors had problems with the process. Additionally, the bankers and credit card companies said no way. If you are going to do an application via credit card to collect monies up front and then refund those monies to the unsuccessful applicants (about 80%), you are going to be writing a lot of checks. Also, there are fees charged for the processing of the credit card purchases and if the merchant does a refund, the merchant pays for those processing fees. A couple of other states get around this by issuing their own refunds, but they are in violation of the Visa/MasterCard agreement. There is no alternative, but to return to the manual draw.

The Commission further discussed moving in the direction of using modern technology for the draw, but for now there would be two ways to apply; 1) via the internet without paying for the tag upfront and 2) by paper application, which includes paying for the tag upfront.

Motion: McLean moved and Golightly seconded THAT THE COMMISSION VOTE TO RESCIND IT'S DIRECTION FROM THE SEPTEMBER 2004 COMMISSION MEETING DIRECTING THE DEPARTMENT TO REQUIRE THAT CUSTOMERS PAY ALL PERMIT/TAG FEES IN ADVANCE WHEN UTILIZING AN ONLINE APPLICATION; THIS IS LIMITED TO PERMIT/TAG FEES, NOT THE ADMINISTRATIVE FEE AND NOT THE HUNT LICENSE FEE.

Vote: Unanimous
Chilton was not present

Chairman Gilstrap clarified with Director Shroufe that the upcoming draw, which will be the manual paper draw, will charge all of those items up front.

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16. Call to the Public

There were no requests to speak from the public.

17. Director's Goals and Objectives – 2005

Presenter: Duane L. Shroufe

The Commission was provided with a list of the Director's Goals and Objectives for 2005 prior to this meeting.

Chairman Gilstrap stated that the Director will be providing the Commission with updates on his goals and objectives on a monthly basis.

Motion: McLean moved and Golightly seconded THAT THE COMMISSION APPROVE THE DIRECTOR'S GOALS AND OBJECTIVES FOR 2005.

Vote: Unanimous
Chilton was not present

Note: Goals and Objectives are attached to these minutes for reference.

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18. Director's and Chairman's Reports.

Chairman Gilstrap reported that he spent a lot of time at the legislature and some other events, such as banquets and the Sportsman's Expo.

Director Shroufe reported on his goals and objectives.

Goal 1. Access to Public, Private and State Lands – The Department has been working west of the Benson area to provide access to a significant amount of Forest land that is now land locked from the north. We may be able to take care of it through a land exchange. Last month we met with the principles involved and are working closely with BLM and with Congressman Grijalva's office to get a bill introduced that would give us a permanent right-of-way. We are also working with BLM and Pima County in order to open up some access into that same area through their land.

Goal 2. Continue to Work with Local, State, Regional and National Levels of Federal Land Management Agencies to Secure All the Authorities and Agreements Possible Regarding the Management of Wildlife in Arizona on Public Lands – The Department is close to getting the BLM and the Forest Service to an understanding of how we should manage and access wildlife in wilderness areas. That will be a big discussion item next week at the North American Wildlife Conference where we have a meeting set up with the Chief of the Forest Service and the Director of BLM. We've been working diligently on ways to get the National Refuge System to have hunting, fishing, trapping, photography and public recreation at the top of their priority list, and to see local conservation plans coming out from a national level that will give each refuge manager direction to see that these things are accomplished on each refuge.

Goal 3. Renew focus on Statewide Shooting Range Program – The Department is about to embark on the scoping process for the alternate site for Bellemont. Also, the Governor's representative for Military Affairs has contacted us and there seems to be another venue for

opening discussion as to whether or not we can have a range on the Navajo Army Depot. That will add into the scoping process and we are going to initiate it in the next two weeks.

Goal 4. Continue to Work and Cooperate with Local Groups on Local Issues – Director Shroufe and Richard Hubbard talked to the wife of the owner of the Ranch north of Wilcox where we've had the antelope fence problem for the past year. We now have a scheduled work day for the Antelope Foundation and the Game and Fish Department to fix that fence. Also, we may be able to either buy or gain other access to public areas through that property.

Goal 5. Explore All Opportunities to Enhance Habitats and Water Resources for Wildlife with Cooperating Landowners and Landowning Agencies – The two booklets provided to the Commission on our Water Development Program gained national honor and will be given the President's Award from the Wildlife Management Institute next week for the Premier Team Effort to Help Promote Wildlife Habitat.

Regarding the Lower Colorado Multi-Species Plan, the Department is working very closely with the Bureau of Reclamation. One of the mitigation issues to deal with is when they sign that plan, scheduled for April 4, 2005 at Hoover Dam, they have to provide about 8100 acres of new riparian area along the Colorado to mitigate for their dredging and what they have to do to maintain the Colorado River. We are in preliminary negotiations on two items. One is the acquisition of the Planet Ranch by the Bureau of Reclamation for water rights. The Bureau of Reclamation does not want to become a landholder. We have a companion project; the old Cibola Water District has sold most of their interest to the Hopi Tribe and Mohave County. Mohave County doesn't want to be a landholder either, so we have a very good chance that the Commission will acquire that land, which is already developed in riparian habitat and with a trust budget for at least 50 years. That's the same sort of scenario that we are discussing on a preliminary basis with the Bureau of Reclamation for the Planet Ranch.

Goal 6. Ensure Revenue Streams and Find New Sources – Several Department personnel participated in a rally in Washington D.C. last week called Teaming With Wildlife. The President has indicated that he has asked Congress for 100 million dollars for state wildlife grants. The Department has been working with state wildlife grants and the Conservation Reinvestment Act for the past 10 years. Right now Arizona Game and Fish is getting between 1.3 and 1.5 million a year for state wildlife grants, with a total allocation from Congress of 63 million last year. If that goes up to 100 million this year, then the Arizona Game and Fish will probably receive close to 2 million.

Goal 7. Direct Department Efforts/Resources Towards Evaluation of Listed Threatened and Endangered Species – The Department is working closely with the Fish and Wildlife Service addressing the cactus ferruginous pigmy owl, three chubs that have been proposed for listing, a recovery plan for Apache trout, and the down-listing of the Gila trout from endangered to threatened with a 4D rule, which will allow us to stock Gila trout in streams and also recreate and fish for them as we have Apache trout. This recovery plan for the Apache trout should lead to de-listing the species.

Goal 8. Award Finalized Contract for Construction of New Headquarters – The Commission was sent a gantt chart of the Department's planned movement on this item. It looks aggressive, but is close to being a reality.

Goal 9. Pursue New Salary Increases for Employees Department Wide – Recently, the Commission was sent a memo outlining how the Department would get there after they get the fee increase. The stage is being set with the Department of Administration where they are doing a Classification Maintenance Review of all the Wildlife Series positions. Hopefully, we can get them to tell us in a report that our class ranges are correct, but that we need to move our employees through our ranges faster and get them up into the third and fourth quartile instead of having them hang back in that first quartile. That alone will provide us with enough to go back to the legislature and ask them for an appropriation of Game and Fish money to provide raises for at least those employees funded by the Game and Fish Fund, Watercraft Fund and Nongame and Endangered Species Fund.

Goal 10. Improve Public Understanding of Predator Management Including Social and Scientific Aspects and Affect Appropriate Management Changes – We all worked on the Predator Management Plan and we had a meeting with all the necessary entities in our Department directing them to implement that plan.

Goal 11. Evaluate opportunities for Increasing Watchable Wildlife Programs – Under the leadership of Bruce Taubert, Assistant Director of Wildlife Management, we had a workshop in Sierra Vista where local entities were invited and national experts were brought in to talk about the economic benefits of watchable wildlife. It was a successful conference and one of our efforts to get the program started.

Goal 12. Pursue Resolution of Management Objectives for House Rock Wildlife Area Bison Herd – This item is on the agenda for tomorrow by presenter, Ron Sieg, Flagstaff Regional Supervisor.

Goal 13. Improve Hunter/Angler Recruitment and Retention – The Department had some very successful responses to both the Scholastic Clay Target Program and the Archery in the Schools Program. We received endorsement from the Archery Trade Associations that will perhaps give us some relief in providing training and equipment.

Chairman Gilstrap requested that a meeting be scheduled with the compact Indian tribes and a report be provided to them on how we are utilizing the wildlife conservation funds, and thank them for their assistance.

Director Shroufe agreed that it would be very appropriate.

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19. Commissioner's Reports.

Commissioner McLean worked on the RFP for the online draw process and attended a couple of hunt banquets. In addition, he worked with Desert Recreation to get them to donate some pheasants for several pheasant hunts in which Commissioner McLean volunteered to guide. The hunts will be auctioned to make a little money for various organizations. Also, Commissioner McLean has been working with others on the California condor and attended the 20th release of Condors in the Wild in Arizona.

Commissioner Golightly also attended the Condor release and then spent time at the legislature.

Commissioner Melton spent a lot of time out in the field.

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20. Approval of Minutes

Motion: McLean moved and Melton seconded THAT THE COMMISSION APPROVE THE MINUTES FOR FEBRUARY 3, 2005.

Vote: Unanimous
Chilton was not present

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Meeting recessed for the day at 4:00 p.m.

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Saturday, March 12, 2005 – 8:00 a.m.

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Chairman Gilstrap called the meeting to order at 8:00 a.m. The Commissioners introduced themselves and Chairman Gilstrap introduced the Director, and the Director's staff.

This meeting follows an agenda revision dated March 7, 2005.

1. Hearing on Proposed Amendment to Commission Order 29 for Special Big Game License-Tag Season for Elk for 2005-2006.

Presenter: Leonard Ordway, Game Branch Chief

The Department presented an amendment to Commission Order 29 for the 2005-2006 Special Big Game License-Tag hunting seasons for Elk. The recommendation is to extend the season to February 28, 2006 from the current ending date of December 31, 2005. The proposed change is a result of a request from the Arizona Elk Society, one of the sponsors of the 2005-2006 tags because the special license tag holders were unable to harvest elk during 2004. The legal animal will remain any antlered elk.

Recommended amended season dates and open areas for elk special license-tag hunts are as follows:

Elk

September 1, 2005 – February 28, 2006 (181 days)

Special license-tags will be valid for Units 1, 2B - 10 (except Camp Navajo), 12A, 12B, 16A (except Mohave County Park Lands), 17A, 17B, 18A, 18B, 19A, 19B, 21, 22, 23, 27, 28, 31, and 44A.

Motion: Chilton moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE COMMISSION ORDER 29: ELK SPECIAL HUNT AS PROPOSED.

Chairman Gilstrap asked if there was any reason that the start date for this hunt couldn't be moved up to mid-August, and stated that it would maximize the opportunity for those hunters.

Mr. Ordway replied that the only issue is in the public process. There may be some timing issues given the current year's process in that the raffle tag will not be announced until the first or second week of August at the REMF banquet, so there could be some concerns from that particular group. Otherwise, there are no biological reasons, so it could be considered for next year.

Chairman Gilstrap requested that Mr. Ordway bring that back for consideration as part of the package for the next adoption of Commission Order 29 with the Commission.

Vote: Unanimous

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2. Briefing on Public Process Regarding Deer Hunt Management in Units 12AW, 12AE, and 12B.

Presenter: Leonard Ordway, Game Branch Chief

At the April 2004 meeting, the Commission directed the Department to address additional approaches to assessing antlerless deer harvests on the Kaibab through public involvement with the Arizona Deer Association (ADA). The Department provided a briefing to the Commission regarding progress on this direction for deer hunt recommendations in Units 12AW, 12AE, and 12B. The Department discussed management objective performance as measured by aerial surveys and alternative management guidelines. Details regarding input from the public hunt process and specific meetings with the Arizona Deer Association was provided.

Brian Wakeling, Big Game Supervisor, gave a Power Point presentation to the Commission titled Deer Management on the North Kaibab.

Surveys were conducted immediately following the hunt this year using a helicopter. In all the units combined, 12A West, 12A East and 12B, the minimum population estimate for the area was 9,000-10,000 deer total. A second survey of Unit 12A West approximately two weeks following the first survey indicated a minimum of just under 7,000 deer in that area.

Standard ground surveys were done as well, which is what the buck to doe and fawn to doe ratios are based on. These surveys generated a 31 to 100 buck to doe ratio and 103 to 100 fawn to doe ratio. The fawn to doe ratio was a tremendous increase and unexpected. Usually, a fawn to doe ratio of 40-50 to 100 will maintain a stable population.

The biggest issue with reaching resolution and agreement between some of the sportsman's groups and the interested public is in the cliffrose monitoring. Currently, the Department is monitoring cliffrose the way they always have. This upcoming week, the Department will be sampling between 10 and 12 deer in order to evaluate their body condition and nutritional status. If possible, the results from this sampling effort will be provided at the April Commission meeting. Members of ADA have been invited to participate in these samplings and have been invited on a field tour of the winter range on March 28, 2005. A big effort is being put toward coming up with a browse monitoring protocol that all agree on.

Information used to manage deer on the Kaibab is gathered from check stations, hunter questionnaires, deer surveys, browse cliffrose use and population modeling; hunt structures are modified to according to that information.

Some of the ongoing improvement projects for the Kaibab include habitat treatments, water development repairs, and a water distribution plan. On 12A East and 12A West there are a number of push renovations scheduled. Also, there are seeding projects and pinyon juniper removal in a restoration effort for grassland, sagebrush and cliffrose.

Mr. Wakeling provided several charts, graphs and maps in his presentation and answered several questions for the Commission. Discussion included the increase or decrease of deer in certain areas and how to target deer populations to alleviate over browsing in some areas.

Public Comment

Steve Fairaizl, Senior Biologist with the Environmental Consulting Firm of Logan Simpson Design representing ADA, addressed the Commission. About a year ago, ADA requested that the Department collect more and better scientific data in which to make management decisions. ADA worked together with the Department to gather the data and to reach a consensus on hunt recommendations for 2005. Mr. Fairaizl reported that substantial progress has been made toward that goal.

Commissioner Golightly confirmed with Mr. Fairaizl that ADA agreed with the scientific methods for calculating the number of deer in the area and that the aerial surveys were done at the right time of year.

Mr. Fairaizl confirmed this, however he stated that some ADA members believe, from their own observations, that the number of deer are less than those calculated by the Department. They are in agreement of the range, but they believe the numbers are in the lower end of that range.

Commissioner McLean asked Mr. Fairaizl if he, as a biologist, agreed with the Department's calculated number of how many deer were in the area based on the scientific methods for calculation.

Mr. Fairaizl stated that he agreed with the Department's calculation.

The Commission and Mr. Fairaizl further discussed Kaibab deer population management objectives and philosophies.

Public Comment

Mark Bool, President of ADA, addressed the Commission. In meetings with the Department, Mr. Ordway stated that the Department's position in regard to deer on the Kaibab was to maintain the herd or slightly grow it. The position of ADA is to see that herd grow and this year is a great opportunity to see that happen. The ADA believes that the numbers are subjective, but they appreciate the Department's efforts to capture biological data and they fully support that. It appears sometimes that ADA is in an adversarial role, but that is certainly not the case. They appreciate being invited to work with the Department and the Commission to do what's right for deer in the state, and they believe that working together has had a positive effect.

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Meeting recessed for a break at 9:55 a.m.

Meeting reconvened at 10:10 a.m.

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Public Comment

Former Commissioner, Joe Carter, addressed the Commission and encouraged them in their efforts with the legislature in regards to the budget and in regards to the Heritage Fund.

3. Briefing on Management of the House Rock Bison Herd and Options for Addressing Issues Raised by Grand Canyon National Park.

Presenter: Ron Sieg, Region II Supervisor

At the December Commission meeting the Commission gave direction to the Department to work on removing half of the current estimated 250 animal House Rock bison herd during the calendar year 2005 and Mr. Sieg provided an update on the progress made since that meeting.

Three flights were conducted, January 28, February 28 and March 7, to try to locate bison and 113 bison were located in two general areas, Point Sublime and Fire Point. A map was provided for the Commission. In February and March we flew the Kaibab National Forest looking for signs and only found bison in the Fire Point area. We did not fly the park again in February or March because we were trying to find bison off of the Park. On March 9 we were successful in getting four GPS collars on bison. These collars will report the bison's location every two and a half hours for two years and one of the objectives is to figure out if the Point Sublime bison are moving off the park. We were able to collar two in the Point Sublime region and two in Emerald Point. The bison collared were cows, two were two years olds and two were five year olds.

The spring bison season opened on March 11 with 5 any buffalo tags. In the early flights we were able to find some of the bison locations in the Fire Point area and the manager up there has been working with hunters, so there is hope to get bison harvested in that area.

In the last few weeks we have been evaluating with Grand Canyon National Park, a proposal to look at capitalizing on the snow by using snow machines to make a track out of the heavy snow areas back toward the House Rock valley and bait that track with hay. That may or may not

happen depending on how fast the snow melt occurs. Once the bison are back to the House Rock valley, population management hunts would be implemented to remove them.

In May the Grand Canyon National Park is bringing someone in to try to capture bison using temporary corrals around water. Hopefully this will include Point Sublime and Fire Point so we can see how successful they are. There is some concern that with the moisture we've had this winter that the bison may not be willing to go into a trap system around a water. We plan to capture up to 30 bison in the test and we still have 60 population management hunts good through July to use for that.

A mosquito herding technique will be used in May by the Park to try and move the bison past the Park boundary. If successful, we will bring in hunters in between the park and the bison so that the activity will move them away from the Park boundary.

The plan for the coming year is to not recommend any general season tags. Last year we had a 3.6% harvest success and this was frustrating for hunters. The proposal will be to plan population management hunts and use any opportunity to reduce the herd. The Commission has the ability to reduce the amount of the tags up to 75% and we may want to look at that next year.

We are evaluating the potential to have a hunt during breeding season in mid to late August when up to 130 bison have been known to be in the House Rock area. A couple of concerns are that some of the cows will have calves, and we need to work very hard during that hunt to capitalize on the opportunity because if we shoot during the breeding season they may not come back again during the breeding season.

Commissioner Golightly asked about a new pool of applicants being created for the management hunts.

Mr. Sieg stated that applications will be accepted until April 30 for a new pool starting May 1.

Commissioner Melton commented that reducing the price for these hunts would probably create controversy unless we were down to maybe the last 50 of the objective.

Commissioner McLean commented that, since this was a true population management hunt, which included cows and yearlings, that there would probably be plenty of hunters interested in a bull tag, but not likely a yearling tag, and suggested that something may need to be worked out with the cost.

Director Shroufe stated that we would have to see what the market is going to be for these hunts and if the interest is there for cows and yearlings, and then adjust as necessary.

Chairman Gilstrap suggested working with the Park to do another survey and try to get a count of the bison in the Park. Further, Chairman Gilstrap asked about using archers in the hunts at House Rock in an attempt to not disrupt them as much.

Mr. Sieg stated that the Park would probably be willing to help with the funding of another survey. In regards to using archers, they are actually more disruptive because of the need to get close to the animals.

Commissioner McLean commented that he is not in favor of corral shoots and that it would behoove the Commission to have a lot more discussion where other alternatives are flushed out, such as selling or trading, or even using a large pasture that would at least resemble a fair chase hunt.

Mr. Sieg stated that the hunts are between April 10-30, but they would be traditional in-the-field hunts. If we do the hunts referenced by Commissioner McLean, it wouldn't be until a later date.

Director Shroufe stated that this is all conjecture at this point in time. We are working on efforts to reduce the herd, but we don't know yet what is going to work. However, there is no intention to ever have a corral shoot.

Commissioner Chilton suggested possibly selling them to a buffalo ranch.

Director Shroufe stated that selling the bison may be one of the options presented to the Commission, but right now the direction is sport hunting. Maybe we'll decide that sport hunting is not feasible and maybe we'll bring it to the Commission, but right now we are trying to get a handle on how many we have and to try and alleviate the situation on the Park.

* * * * *

4. Petition to Revise Rule R12-4-313, Allowing For the Use of Bow and Arrow or Crossbow as a Legal Method of Take for Channel Catfish.

Presenter: Lawrence M. Riley, Fisheries Chief

Mr. Dell Owens, of Phoenix, Arizona, submitted a petition to revise A.A.C. R12-4-313 (Lawful Methods of Taking Aquatic Wildlife). Mr. Owens petition requests that the rule be revised to allow for the use of bow and arrow or crossbow as a legal method of take for catfish. Mr. Owens initially expressed his interest to the Commission at their October 2004 Commission meeting. We indicated at that time that the rule would have to be modified in order to allow for this activity, and that the activity could not be authorized by change to the Commission Order 40.

Mr. Owens has subsequently submitted his request for modification of rule A.A.C. R12-4-313. Mr. Owens has suggested that "catfish" be added to the list of species that can be legally taken using means other than angling (R12-4-313.D.).

Currently, take by this method is not allowed for any game fish species in Arizona. Consideration of this rule change should include public input and alternative strategies including establishment of a framework for Commission seasons and/or specific locations for this activity, prior to rule making. The existing 5-year rule review process is the appropriate venue for consideration of this petition whereby a full and careful analysis can be conducted.

Public Comment

Dell Owens addressed the Commission stating that bow hunting for catfish has been legal in the southern part of the United States for years and he would like to see a four or five a day limit at

Salt River lakes such as Lake Pleasant and Lake Alamo. Catfish are considered a catch and consume species and not catch and release as they would not survive being taken by arrow. Mr. Owens thinks it's a sporting way to take catfish.

Commissioner Golightly asked what the chances would be to take a different species by mistake.

Mr. Owens stated that you shoot in muddy waters, so there is the chance, but a catfish is pretty distinctive and he had never accidentally shot a different species.

Commissioner Melton asked Mr. Riley about the ruling on pot holes where water is drying up and there is an impending fish die off.

Mr. Riley stated that there is a provision under rule that allows the Commission to make an emergency change to the season and bag limit and allows a broader use of method of take. However, that is very specific and it does not allow the use of an implement that discharges a projectile, except for carp, mullet, buffalo fish, tilapia and suckers (with the exception of razor back sucker – a federally listed species that cannot be taken or possessed). The rationale for limiting the methods of take to devices that do not discharge a projectile is the fact that we are often dealing with small bodies of water and small areas, bringing up a human safety concern. One of the factors built into the existing rule with regard the use of bow and arrow is the restriction of how close you can be to any designated swimming area or dock, and this is one reason why we are conservative about the uses of devices that use a projectile.

Commissioner McLean asked where we are in the 5-year rule cycle and if we could at that time both review the Article 3 and Rule 40.

Mr. Riley stated that the next scheduled Article 3 review will be coming up in about 1-2 years. In regards to reviewing both at the same time there are three things to consider. First, the rule making process could take up to a year depending on the controversy involved and at the conclusion of that there is a period of time before the rule becomes effective. The second issue is building into Article 3 any flexibility in terms of the emergency rule change process for impending fish die offs that might allow flexibility for the use of a device that discharges a projectile. The third issue is that at the conclusion of the rule making process, because we are now on a two year Commission Order 40 modification process, would the Commission choose to make a change to Commission Order 40 in the interim to bring that season setting process into effect so that specific seasons could be set for the take of catfish with bow and arrow.

Commissioner Gilstrap confirmed with Mr. Riley that according to the Department's recommendation, Mr. Owens' request will be delayed for about 1 ½ years.

Motion: Golightly moved and McLean seconded THAT THE COMMISSION VOTE TO DENY THE PETITION BUT DIRECT THE DEPARTMENT TO CONSIDER ADDITION OF CATFISH TO THE LIST OF SPECIES THAT MAY BE TAKEN BY BOW AND ARROW OR CROSSBOW DURING THE NEXT REVIEW OF ARTICLE 3.

Vote: Unanimous

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5. Request to Approve a Notice of Proposed Rulemaking to Amend Commission Rules R12-4-101 and R12-4-107, and to Make New Rule R12-4-124 to Create a “Conservation Bonus Point.”

Presenter: Sherry Crouch, Acting Rules & Risk Manager

As directed by the Commission, the Department has separated the rulemaking to create a “conservation bonus point” program from other amendments to address issues regarding the Ninth Circuit Courts decision to overturn R12-4-114(E), and is pursuing it on a different timetable. The amendments that are proposed under this Notice of Proposed Rulemaking are not substantially different from the amendments as they were originally proposed.

This rulemaking will create a “conservation bonus point” program that will give participants an additional bonus point to be used during the hunt permit-tag draws.

R12-4-101. Definitions. This rule will be amended to establish a definition for a “conservation bonus point.”

R12-4-107. Bonus Point System. Amendments to this rule related to the conservation bonus point program state that a bonus point received through the program shall be valid for all wildlife genera for which a bonus point may be issued (much in the same way as a bonus point issued for completing a hunter education course); however, the rule will also be amended to state that a conservation bonus point is not permanent, and is lost if an applicant is drawn.

R12-4-124. Conservation Bonus Point. This rule states that in order to receive a conservation bonus point, an individual has to complete 48 hours of volunteer activity on a project or projects that are authorized by the Department as eligible for conservation bonus points. Individuals must also have their volunteer activity recorded by a Department-certified record keeper. Organizations and individuals may submit projects to the Department to be authorized for conservation bonus points, but these projects must be “based upon or [in support of] the Department’s mission statement.” Projects organized by a group or individual other than the Department must also allow all individuals, regardless of membership, to participate. To ensure this, the proposed rules require that all activities not sponsored by the Department obtain participants through “first-come, first-served” enrollment. A participant may be required to attend an orientation session or safety training before participating in a project if the project requires it for successful completion. A participant must complete the 48 hours of volunteer service within 3 consecutive years to earn the point.

The objective of this rulemaking is two-fold: to reward those individuals that volunteer to assist the Department in the execution and achievement of its wildlife management objectives, and also to maintain resident hunting opportunity in the state. Earlier, the Department proposed various rulemaking actions with this same latter objective as a response to the Ninth District Circuit court’s overturning of R12-4-114(E). Although non-residents will be able to participate in authorized volunteer activities, the Commission holds that this rulemaking is necessary to fully achieve the objectives of maintaining resident hunting opportunity and achieving the Commission’s wildlife management goals.

If approved by the Commission, this Notice of Proposed Rulemaking will be submitted to the Secretary of State's Office by March 18, 2005, so that it will be published in the April 8, 2005, issue of the *Arizona Administrative Register*.

In order to give the public adequate time to provide comments, the Director, under the authority of R12-4-603, will designate a Department employee to be a public hearing officer for the purpose of conducting a public hearing to take comments on the proposed rulemaking. The Department will take final comment on the rules at this public hearing, which will be held on May 14, 2005, at 9:00 a.m. at the Wildlife Building at the Arizona State Fairgrounds at 1826 W. McDowell Rd., Phoenix AZ 85005.

Commissioner Melton asked if this was exactly the same as before and that the process was just being started over, to which Ms. Crouch stated that there were no substantial changes.

Commissioner McLean confirmed that if the Commission opened this, it would be the intent of the Department to designate a hearing officer who would hold a public hearing in May as opposed to the Commission going through that process.

Ms. Crouch responded that it was standard rule process for the Department to assign a hearing officer and conduct public hearings in addition to the Commission meeting, but the public hearings are based on Commission direction.

Dana Yost addressed the Commission and stated that the Director has the authority to designate a hearing officer and is looking to the Commission to authorize him to do that. The purpose of this rule making is because, historically, we had a lot of public testimony on this, and this way that testimony would take place in another setting, rather than at the Commission meeting where there is a limitation on the amount of public participation through the blue slip process; the public would have an adequate opportunity to discuss and ask questions as long as they would like. Additionally, the hearing would be scheduled on a Saturday in Phoenix to allow the public to attend, air their questions, and have a full dialogue with the Department. The Commission would still take public comment once the final rule making comes before them, but would have more flexibility on the time constraints and requirements.

Mr. Odenkirk addressed the Commission stating that what would accompany this process is that the Department would identify issues that are raised during the public hearing, respond to those issues in the record and then that information would be available to the Commission for their review prior to any final decision.

Commissioner McLean asked about the time table that this process would put the rules on and when would the new rules take effect.

Ms. Crouch responded that the Department would still be on the same time frame and come back to the Commission on June 24, 2005 with a notice of final rulemaking approval and the public would have an opportunity to provide comments to the Commission. Also, assuming all things progress as scheduled and we get it through Governor's Regulatory Review Council (GRRC), it would be noticed on GRRC's agenda on July 18, 2005 and would be voted on by GRRC at their September 13, 2005 meeting, and then the rule would become effective 60 days after GRRC votes for approval. It would be in place for the 2006 hunt draw.

Motion: Melton moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF PROPOSED RULEMAKING TO BE SUBMITTED TO THE SECRETARY OF STATE TO AMEND COMMISSION RULES R12-4-101 AND R12-4-107, AND TO MAKE NEW RULE R12-4-124 TO CREATE A “CONSERVATION BONUS POINT.”

Vote: Aye Gilstrap, Melton, McLean, Chilton
Nay Golightly
Passed 4 to 1

Commissioner McLean explained that he voted aye because he would like this item to be brought back before the Commission, that he was not 100% on this and still has some questions.

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6. Gerry Perry Supervisor, Region V. Request for the Commission to Consider Authorizing Fort Huachuca to Take Deer, if Necessary, From a Newly Fenced Area Surrounding Libby Army Airfield.

This item was deleted and not addressed.

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7. Call to the Public

There were no request to speak from the public.

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8. Future Agenda Items

Steve Ferrell, Deputy Director, read back to the Commission the items he captured as future agenda items or action items.

- Make sure that Laosa and Cimerron City are in future lands updates.
- Work to draft a letter to the BLM state office copying the Arizona Congressional Delegation expressing concerns for the lack of wildlife enhancement option in the Sonoran Desert National Monument RMP.
- Consider working cooperatively towards a final agreement on the Cienega Corridor and pursue greater inclusion of stakeholders and local landowners in the cooperative agreement. Return that to the Commission when it becomes a final document.
- Continue with the current lessees on the grazing permit, grasslands wildlife area.
- Aggressively support the Reid legislation in a letter from the Chairman on behalf of the Commission, asking the Arizona Delegation to sign on in support of that legislation. Commissioner Chilton stated for the record that she now supports and will sign this letter.
- Bring back a map in an aerial photo that better describes the proposal by Maricopa County to place a hiking trail near Ben Avery Shooting Range.

- Present to the Commission a plan to enhance or at least meet existing demand for the Archery in the Schools Program.
- Pursuant to the public comment in the Call to the Public, look into Commission Order 40 on the question on Gunnison prairie dog.
- Continue after the 2005 draw to pursue the Internet for future draws as the new RFP runs its course and a new licensed vendor is selected.
- Schedule a meeting with the Tribal Compact members advising them of what we are doing with the Wildlife Conservation Fund and how important they are to Arizona.

Commissioner McLean commented that along the same lines as Laosa in the Cimeron City, at some point in the foreseeable future he would like to have some Department review and consideration and discussion as it relates to having habitat discussion in more areas involving both county and municipal zoning. Counties are taking huge areas of habitat with no wildlife input and developers act as though they are doing good by putting in wildlife corridors, which really amount to nothing more than fairways.

Motion: Chilton moved and McLean seconded THAT THE MEETING ADJOURN.

Vote: Unanimous

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Meeting adjourned at 12:00 p.m.

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W. Hays Gilstrap, Chairman

Joe Melton, Member

Michael M. Golightly, Member

William H. McLean, Member

Sue Chilton, Member

ATTEST:

Duane L. Shroufe
Secretary and Director